

Remarks

Claims 2-22 are pending in the application. Of the above claims, 6 and 6-22 are withdrawn from consideration.

Claims 2, 10, 14 and 15 stand rejected.

Claims 4, 5, 7 and 11-13 are objected to as depending from a rejected base claim, but the Examiner has indicated that those claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Examiner has rejected claim 2 as being anticipated by U.S. Patent 5,317,819 (Ellis). The Examiner states that with respect to Figures 5B and 6, the total curved surface of the outer surface of Ellis doesn't have a curve as claimed but it at least has a portion that is curved as claimed. The Examiner further states that Figures 15 and 22B have the curved surface as claimed.

In reviewing these figures, Applicant notes that a fundamental difference between the Ellis arrangement and the present invention is that the curvature in Ellis is somewhat two-dimensional in that the curvature across the heel (widthwise across the wearer's foot) has a different radius than along the heel (lengthwise with respect to the wearer's foot). In other words, while presenting a convex surface, the curvature is not spherical. In contrast, as can be seen by comparing Figures 5 and 7 of the present application, the heel region of the article of footwear of Applicant's invention is spherical in that the radius is substantially the same and taken from the same point whether the shoe is viewed lengthwise or widthwise. This is apparent in Figures 5B and 6 as marked up and submitted in Applicant's July 8, 2005 response.

Claim 1 has been amended to further clarify that the convex curvature is of generally spherical configuration over its total surface to more clearly distinguish it from the Ellis reference. Applicant respectfully submits that claim 1 as amended patentably distinguishes over Ellis. The remaining claims which stand rejected depend from claim 1 and accordingly Applicant further respectfully submits that with the above amendment,

all of the claims presently pending in the application are allowable and action toward that goal is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Phil', written over the typed name 'Peter Milne'.

Peter Milne
Registration No. 34,534

Telephone: 416-862-5790

Facsimile: 416-862-7661

Email: peter.milne@gowlings.com

PM:hcu

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